

## UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

Fortino Maldonado-Guillen

Date of Original Judgment: 06/10/2016

Date of Previous Amended Judgment: \_\_\_\_\_

(Use Date of Last Amended Judgment if Any)

Case No: 5:14-cr-72-KDB-SCR-9USM No: 58890-056

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION  
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

**IT IS ORDERED** that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months **is reduced to** \_\_\_\_\_.

(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment dated 06/10/2016 shall remain in effect.**IT IS SO ORDERED.**

Signed: October 31, 2024



Kenneth D. Bell  
United States District Judge

Judge's signature

Effective Date: \_\_\_\_\_

(if different from order date)

Kenneth D. Bell

Printed name and title

**This page contains information that should not be filed in court unless under seal.**  
**(Not for Public Disclosure)**

DEFENDANT: Fortino Maldonado-GuillenCASE NUMBER: 5:14-cr-72-KDB-SCR-9DISTRICT: Western District of North Carolina**I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)**Previous Total Offense Level: 39Amended Total Offense Level: 39Criminal History Category: IICriminal History Category: IPrevious Guideline Range: 292 to 365 monthsAmended Guideline Range: 262 to 327 months**II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE**

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ The reduced sentence is above the amended guideline range.

**III. FACTORS CONSIDERED UNDER USSG § 1B1.10 AND 18 U.S.C. § 3553(a) (See *Chavez-Meza v. United States*, 138 S.Ct. 1959 (2018))**

The amendment to U.S.S.G. §4A1.1 in Amendment 821 does apply to the Defendant as he had “status points” as his offense was committed while he was under a criminal sentence. (Doc. No. 309, ¶ 101). With the removal of the 2 status points (because the Defendant had 6 or fewer criminal history points), criminal history points of 1 equals a criminal history category I. With an Offense Level of 39 and a criminal history category I, the amended sentencing range becomes 262-327 months imprisonment. Defendant was sentenced to 235 months imprisonment. (Doc. No. 405). Due to the limitation provided in U.S.S.G. §1B1.10(b)(2)(A), the Court cannot impose a sentence below the already imposed sentence. Amendment 821 provides no relief to Defendant.